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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,263	03/11/2002	Arthur Frank Bollen	00D936US	8163

466 7590 01/22/2003

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EXAMINER

JIANG, CHEN WEN

ART UNIT PAPER NUMBER

3744

DATE MAILED: 01/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/009,263

Applicant(s)

BOLLEN, ARTHUR FRANK

Examiner

Chen-Wen Jiang

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-36, 38, 40-47 and 51-56 is/are rejected.
- 7) ☒ Claim(s) 37, 39 and 48-50 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7, 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Reference numbers 72 (page 9, line 13) is missing in the drawings. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 38 and 52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 38 recites the limitation "wherein gas moving means" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

5. Claim 52 recites the limitation "the base chambers" in line 2. There is insufficient antecedent basis for this limitation in the claim.

6. The following rejections are based on the best understanding of the claimed limitations.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

8. Claims 30,31,32,33,40,41,43,44,51,53,54 and 55 are rejected under 35 U.S.C. 102(b) as being anticipated by Ghiraldi (U.S. Patent Number 5,548,967).

Ghiraldi discloses a method and apparatus for absorbing heat and preserving fresh products under optimal condition (Figs.1-4). The container 11 has insulated walls and access door 12 to encompass a preservation and cooling chamber 27. Rectangular panels 14 are fitted in registering recesses in the container walls as shown in Figs.2 and 3. Each panel 14 is comprised of two facing walls 23,24 interconnected by transverse partitions 25 having a circuit 17 in the middle for the brine fluid (can be air) circulating system 13.

9. Claims 30-33,36,41,43,44,51,54 and 55 are rejected under 35 U.S.C. 102(e) as being anticipated by Flessner (U.S. Patent Number 5,987,912).

Flessner discloses a low temperature air convection cooling apparatus. The convection chiller 10 comprises a housing which shown in Fig.1 is substantially rectangular in shape. The chiller 10 includes top, bottom and sidewall members forming the housing of the chiller 10. The top, bottom and sidewalls of the chiller are of double wall construction. Each wall comprises an inner and outer panel separated by bracket members and defining a space therebetween as shown in Figs.2 and 6. The inner panels 16-20 include a plurality of airports or nozzles 24 formed therein. The nozzles 24 are connected to the distal ends of air conduits 26 of an air distribution manifold connected to the refrigeration unit of the chiller 10. The line 30 is connected to the exit port 32.

10. Claims 30,31,32,33,38,41,43,44,47,51,54 and 55 are rejected under 35 U.S.C. 102(b) as being anticipated by Westling (U.S. Patent Number 2,586,893).

Westling discloses a method and apparatus for transporting and storing frozen comestibles. Referring to Figs.1 and 2, the container comprises a top, bottom, sidewalls, air circulating channel 26 and blowers 16.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 30,31,32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodrigues (WO 90/05098).

Rodrigues discloses a container 13 for rubbish comprising sidewalls 17, top 43 and ducts 21. Air is allowed to ingress through the inlet passageway via the entry 31 and flow along the outer cavity 21a, the inner cavity 21b and into the lower confines of the compartment. The applicant should also note that a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

13. Claims 34,35,42,45,46,47,55 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ghiraldi (U.S. Patent Number 5,548,967).

In regarding to claims 34,35,45,46,47 and 55, Ghiraldi discloses the invention substantially as claimed. However, Ghiraldi does not disclose the passage pattern. Upon a close review of applicant's specification, it appears that the claimed parameters do not have any criticality and/or lead to any new and unexpected results. Applicant does not specify the deficiencies of other passages used in the prior art. Therefore, it would have been obvious to one of ordinary skill in the art to have selected the claimed passages for the circulation the cooled air since these particular passages provide cooling that are no better or provided improved performance over that which is commonplace in the prior art.

In regarding to claim 42, the heating and cooling are interchangeable is well known in the refrigeration system.

Allowable Subject Matter

14. Claims 37,39,48,49 and 50 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chen-Wen Jiang whose telephone number is (703) 308-0275.

The examiner can normally be reached on Monday-Thursday from 6:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on (703) 308-2597. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5648.

Chen-Wen Jiang
Primary Examiner
January 8, 2003

A handwritten signature in black ink, appearing to read 'C. Jiang', written over the printed name and title.